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NOTES OF CASES.

Defense to Removal from Office.—In *State v. Baughn*, 143 Northwestern Reporter, 1100, it appeared that the mayor of an Iowa town partook of a beverage on a certain evening to such an extent that he rendered himself subject to removal from office on the ground of intoxication. Of this state of affairs he was apprised by an attorney, who, on the following day, threatened removal proceedings, but before they had been begun he resigned, whereupon the town council reappointed him again to office. Removal proceedings were then instituted because of the intoxication of which the mayor was guilty before resignation. The Supreme Court of Iowa held that the council's maneuver in reappointing him to office could have no effect upon the removal proceedings.

Automobile — Unauthorized Use — Liability of Owner.—That the owner of an automobile cannot, under the due process and equal protection clauses of the Constitution, be made liable for injury to strangers, through its use by persons who have taken it without his knowledge or permission, although their acts do not constitute larceny, is held in the Michigan case of *Daugherty v. Thomas*, 140 N. W. 615, 45 L. R. A. (N. S.) 699. This appears to have been the first case squarely passing upon the constitutionality of a statute which undertakes to render the owner of an automobile absolutely liable for injuries caused thereby, irrespective of negligence on his own part or on the part of anyone for whose conduct he is responsible.

Murder by Stabbing Causing Pneumonia.—A stab in the back which pierced the left lung caused one Miller's removal to the hospital. Two days thereafter his temperature shot up, his pulse became rapid, and pneumonia developed, which caused his death a few days later. His assailant was convicted of murder in the second degree, the jury finding that the disease was caused by the wounds. Expert testimony showed that pneumonia is caused by a bacillus or germ, known as pneumococcus, getting into the lungs from outside either by inhalation or by infection through a wound. The Supreme Court of Minnesota, in *State v. James*, 144 Northwestern Reporter, 216, in discussing the evidence, said: "We have given careful consideration to the evidence, and reach the conclusion that we ought not to say that the verdict finding that defendant caused the death of Miller is based on the mere possibility or probability that the bacillus reached Miller's lungs through the wounds inflicted by defendant, or upon conjecture. We have already mentioned, in the statement of facts, some of the considerations that lead us to reach this conclusion. Miller exhibited no signs of having inhaled the dreaded pneu-

mococcus before 48 hours after defendant's knife opened a hole in his windpipe and pierced his left lung. At the time of the assault he was apparently in robust health. While it must be conceded that it is not impossible that he had inhaled the germ, the coincidence is remarkable that the symptoms of pneumonia should develop only after the stabbing, and at about the time they would be expected to develop had the germ been introduced into the lung on the blade of defendant's knife. The fact that the disease attacked the wounded lung only is entitled to weight, as is also the absence of the chill and the feeling of lassitude which are ordinarily the preliminary symptoms when the germ is inhaled.

Johnson Grass on "Contiguous" Land.—A contention that land separated from a railroad right of way by a parallel public road which was condemned from the landowner was not contiguous to the right of way, within the meaning of a statute permitting recovery by contiguous landowners from railroad companies permitting Johnson grass to mature on its land, was held unsound, as the fee of the public road still remained in the landowner. Judge Rice of the Court of Civil Appeals of Texas, in *International & G. N. R. Co. v. Boles*, 161 Southwestern Reporter, 914, in a very interesting discussion, in part saying: "The writer, however, speaking for himself only, is also inclined to the view that appellee's tract of land in contemplation of this statute was contiguous to appellant's right of way, irrespective of whether or not he owned the fee to the strip of land over which this public road ran. While it is true, as contended by appellant, that in its literal sense the word 'contiguous' means adjacent, touching, near, adjoining, etc., still, in a broader sense, the one in which the word was probably used in the statute, appellee's was contiguous to the railway right of way, since it was only separated therefrom by the public road. This law must be construed with reference to the purpose the Legislature evidently had in view in its enactment, that of protecting land lying along or adjacent to railroad tracks from being injured by reason of the spread of Johnson grass which might be permitted to mature on the right of ways. Throughout the agricultural districts of this state prior to the enactment of the statute in question, railway companies had been the cause of Johnson grass spreading to adjacent tracts of land, through which they ran, to the detriment of the landowners. This statute was intended to remedy this growing evil by requiring them, under penalty, to prevent such grass from going to seed upon their right of ways, and this purpose must be considered in construing it. Surely it must have been intended to protect those who came within the spirit, as well as within the letter, of the statute."